

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

New Rules

COUNTY JAILS

The DEPARTMENT OF CORRECTIONS adopted amendments to County Jail Standards (20 IAC 701; 38 Ill Reg 8511), effective 10/1/14, requiring county jail officers who have contact with juveniles to have extra training. Record-keeping requirements are updated. The use of restraints on pregnant detainees in a county with a population over 3 million must conform to the Counties Code and is prohibited on a detainee who is in labor during transport. Leg restraints, shackles or wrist restraints are prohibited when the detainee is in labor. Numerous other changes have been made to update this Part in accordance with current statute. Since 1st Notice, DOC has added requirements for

county jails to have written procedures for emergency situations and to give special assistance to detainees who are unable to understand disciplinary rules as provided (e.g., non-English speakers). Those affected by this rulemaking include persons who work in county detention centers. DOC also repealed the Part titled Secure Residential Youth Care Facilities (20 IAC 801; 28 Ill Reg 8574) effective 10/1/14 because the underlying statute was found to be unconstitutional under the Single Subject Rule (*People v. Cervantes*(1999)).

Questions/requests for copies of the 2 DOC rulemakings: Echo Beekman, DOC, 1301 Concordia Court, P.O. Box 19277, Springfield, IL 62794-9277, 217/558-2200.

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Proposed Rulemakings

MILITARY FAMILY RELIEF

The DEPARTMENT OF MILITARY AFFAIRS proposed amendments to Illinois Military Family Relief Fund (95 IAC 200; 38 Ill Reg 18838) expanding eligibility for grants from the Fund. The amendments make active duty service personnel, Illinois National Guard members, and Illinois residents who are members of other Armed Forces Reserve components eligible for grants if they are called to duty during an emergency declared by the President or Congress (currently, if called to duty as a result of the 9/11/01 terrorist attacks). "Emergency" is further defined as any governmental declaration in response to a natural or man-made disaster, during a period of civil unrest, or following a declaration of war or

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NEW RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.

PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.

PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.

■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.

RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

New Rules

TORTURE INQUIRY COMM.

The TORTURE INQUIRY AND RELIEF COMMISSION adopted amendments to the Parts titled Policy, Hearings and Forms (20 IAC 2000; 38 Ill Reg 8840) and Organization, Public Information, Procedures, and Rulemaking (2 IAC 3500; 38 Ill Reg 8822), both effective 9/19/14. The Part 2000 amendments, in accordance with statute, specify that a “claim of torture” that the Commission has authority to investigate must be related to allegations of torture committed by former Chicago Police Commander Jon Burge or by any officer under Burge’s supervision. Criteria for documenting such claims are also specified. A definition of “tortured confession” is also added (any incriminating statement, vocalization or gesture made by a convicted person as a result of torture). The rulemaking also describes the duties and powers of the Commission, its procedures for issuing and serving subpoenas, available relief for complainants, procedures for review of Commission decisions, and examples of a staff confidentiality form. Since 1st Notice, the appendices containing the waiver form, claim form and application/order for appointed counsel, all of which were originally proposed for repeal, have been restored. (Appendices containing examples of other forms have been removed from the

Part.) The Part 3500 amendments add waiver forms to the official record, allow the Commission to waive copying fees, offer victims the right to present their views before the Commission, require a separate administrative record to facilitate judicial review, and require 5 affirmative votes to refer cases to circuit court. Priority is given to claims made by prisoners whose torture occurred under Burge’s supervision. For claims involving police officers not under Burge’s supervision, the Commission will notify the claimant that it cannot take further action until the Commission is determined to have jurisdiction over such cases. At least 4 votes are required to accept the Director’s recommendation to deny, terminate, dismiss or approve a claim. The rulemaking also gives the Director authority to issue subpoenas, sets out notification procedures and factors considered in decisions, and repeals summary referral provisions. Changes since 1st Notice remove records retention periods (which are established by the State Records Commission), clarify Commission procedures, correct cross-references and update the Commission’s mailing address.

Questions/requests for copies of the 2 TIRC rulemakings: Rob Olmstead, TIRC, 100 W. Randolph, Ste. 5-100, Chicago IL 60601, 312/814-1094.

SUPERINTENDENTS

The STATE BOARD OF EDUCATION adopted amendments to Educator Licensure (23 IAC 25; 38 Ill Reg 7096) and adopted a new Part titled Programs for the Preparation of Superintendents in Illinois (23 IAC 33; 38 Ill Reg 7822), both effective 9/8/14, instituting new requirements for the superintendent endorsement. The new Part 33 implements the recommendations of the Illinois Superintendent Advisory Group, which redesigned the way superintendents are to be prepared in Illinois. The rule addresses general requirements, internship and coursework requirements, candidate selection, program approval and competency goals for new superintendents. Changes since 1st Notice implement a recent Public Act allowing candidates with 2 years’ experience in a general administrative position (formerly, 2 years’ experience as a principal) to be admitted to a superintendent preparation program and clarify that the superintendent of the Chicago Public Schools is not required to hold a superintendent endorsement. Amendments to Part 25 state that superintendent endorsements under the current standards will not be issued after 9/1/19 and candidates will not be admitted to superintendent endorsement

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Proposed Rulemakings

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situation of international or internal armed conflict. Grant eligibility is expanded to include members of the Illinois National Guard who are called to State active duty for 30 or more consecutive days. Payment for the first 6 months of active duty service will not occur before day 60 of that period, but payment for a second consecutive 6 month period may be made on the first day of that period. Active duty and reserve military personnel and their families who reside in Illinois are affected by this rulemaking.

Questions/requests for copies/comments through 11/3/14: Tom Banning, DMA, 1301 N. MacArthur Blvd., Springfield IL 62702, 217/761-3601, fax 217/761-3736.

■ VIDEO GAMING

The ILLINOIS GAMING BOARD proposed amendments to Video Gaming (General) (11 IAC 1800; 38 Ill Reg 18828) placing a continuous obligation upon all licensees, applicants and persons with significant influence and control to promptly report any material changes in use agreements, persons acting as sales agents or brokers, or revenue sharing agreements. The rulemaking also clarifies that use agreements must provide for licensed locations to be released from their contractual obligations if a terminal operator's license is denied or not renewed. Those involved in video gaming operations may be affected by this rulemaking.

Questions/requests for copies/comments through 11/3/14: Emily Mattison, IGB, 160 N. LaSalle St., Chicago IL 60601, 312/814-4700.

SOS PERSONNEL

The SECRETARY OF STATE proposed amendments to Merit Commission (80 IAC 50; 38 Ill Reg 18851) implementing Public Act 98-810, which extends from 30 to 45 days the time period during which the SOS Merit Commission must schedule a hearing after an SOS employee who has been discharged or demoted files an appeal.

Questions/requests for copies/comments through 11/3/14: Amy Williams, 298 Howlett Bldg., Springfield IL 62756, 217-785-3094, awilliams3@ilsos.net

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at the Committee's October 14, 2014 meeting.

DEPT OF PUBLIC HEALTH

Lawn Irrigation Contractor and Lawn Sprinkler System Registration Code (77 IAC 892) proposed 4/25/14 (38 Ill Reg 8756)

ILLINOIS GAMING BOARD

Riverboat Gambling (86 IAC 3000) proposed 7/18/14 (38 Ill Reg 14641)

ENVIRONMENTAL PROTECTION AGENCY

Collection of Out-of-Service Mercury Thermostats (35 IAC 190) proposed 7/25/14 (38 Ill Reg 15811)

TEACHERS' RETIREMENT SYSTEM

The Administration and Operation of the Teachers' Retirement System (80 IAC 1650) proposed 6/27/14 (38 Ill Reg 13203)

ILLINOIS RACING BOARD

Prohibited Conduct (11 IAC 423) proposed 7/18/14 (38 Ill Reg 14811)

Fines, Suspension, and Expulsion (11 IAC 1322) proposed 7/18/14 (38 Ill Reg 14815)

JCAR Meeting Action

At its 9/16/14 meeting, the Joint Committee on Administrative Rules took the following actions:

EXTENSIONS

JCAR extended Second Notice periods an additional 45 days for the following rulemakings, which will be considered at the Committee's 10/14/14 meeting:

Department of Natural Resources, Hydraulic Fracturing Regulatory Act (62 IAC 245; 37 Ill Reg 18097) and The Illinois Oil and Gas Act (62 IAC 240; 37 Ill Reg 18081)

Department of Financial and Professional Regulation, Licensing and Regulation of Pawn Brokers (38 IAC 360; 38 Ill Reg 10502)

Department of Labor, Health and Safety (56 Ill Adm Code 350; 38 Ill Reg 13728)

Department of Public Health, Specialized Mental Health Rehabilitation Facilities Code (77 IAC 380; 38 Ill Reg 11713)

Chief Procurement Officer - General Services, Chief Procurement Officer for General Services Standard Procurement (44 IAC 1; 38 Ill Reg 10327)

POSTPONEMENTS

Consideration of the following rulemakings currently on extended Second Notice was postponed to the 10/14/14 meeting:

Illinois Commerce Commission, Governmental Electric Aggregation (83 IAC 470; 37 Ill Reg 20544)

Illinois Emergency Management Agency, General Provisions for Radiation Protection (32 IAC 310; 38 Ill Reg 10730), Licensing of Radioactive Material (32 IAC 330; 38 Ill Reg 10752), Licensing Requirements for Source Material Milling Facilities (32 IAC 332; 38 Ill Reg 10760) and Licensing and Safety Requirements for Irradiators (32 IAC 346; 38 Ill Reg 10768).

RECOMMENDATION

With regard to the Department of Natural Resources' emergency rulemaking titled Open Space Lands Acquisition and Development Grant Program (17 IAC 3025; 38 Ill Reg 16400), JCAR recommends that DNR be more timely in implementing Public Acts. Any emergency that exists appears to be agency created. The underlying statute was effective in August 2013, almost a year before DNR adopted this emergency rule. The agency had sufficient time to use regular rulemaking procedures.

New Rules

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programs under the current standards after 8/31/16. School districts will be affected by these rulemakings.

Questions/requests for copies of the 2 SBE rulemakings: Kellee Sullivan, SBE, 100 N. First St., E-310, Springfield IL 62777, 217/557-6763.

■ BOILERS

The OFFICE OF THE STATE FIRE MARSHAL adopted amendments to the Part titled "Boiler and Pressure Vessel Safety" (41 IAC 120; 38 Ill Reg 7741) effective 9/4/14. OSFM is updating this Part to include the latest editions (2013) of the ASME Boiler and Pressure Vessel Code and the National Board Inspection Code (NBIC). This rulemaking may affect entities having boiler systems and small businesses who install and repair boilers and pressure vessels.

Questions/requests for copies: Clayton Novak, OSFM, Attn: Part 120 Rules, 100 W. Randolph St., Suite 4-600, Chicago IL 60601, 312/814-2381, Fax 312/814-3459.